

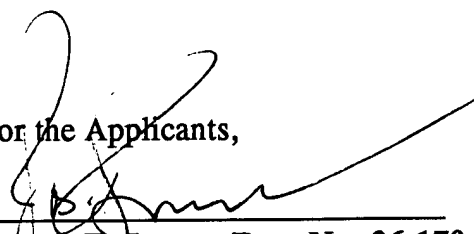
With regard to the claims of Groups I and II, all of these claims are drawn to a method of assaying an enzyme. Citing MPEP §806.04 and §808.01, the Examiner states that "inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects." (Office Action, page 2). The Office goes on to state that the claims of Group I are directed to a "specific substrate" and the claims of Group II are directed to an "immobilized antibody," thereby making them patentably distinct. However, all of claims 1-30 require that the enzyme be contacted with a "corresponding substrate." The Office has made no attempt to demonstrate why including the binding moiety of Group II renders the claims of Group I patentably distinct. It is insufficient for the Examiner to identify mutually exclusive claims and restrict on that basis alone. Accordingly, because the Office has not carried the burden of providing technologically sound reasons or examples for concluding that the claims of the restricted groups are patentably distinct, the restriction requirement is improper and should be withdrawn. Applicants request that in addition to the elected Group II, the claims of Group I be examined at the same time.

With regard to the kit claims of Group III, the Examiner cites MPEP §806.05(e) to state that "the inventions are distinct if it can be shown that either: 1) the process as claimed can be practiced by another materially different apparatus or by hand; or (2) the apparatus as claimed can be used to practice another and materially different process." Applicant submits that the reasons offered by the Examiner are insufficient to support a conclusion of patentable distinctness between the restricted claims. It is insufficient for the Examiner to merely state that the claims of Group III can be practiced by hand or used to practice another process without also showing the feasibility of using the kit in a manner other than as claimed. Further, the kit of claims 47-53, as claimed, can only be used in the method of Claims 1-30. If the kit is used for another process or method, it is not being used as claimed. The Examiner has provided no indication as to the means or the feasibility of practicing the recited method by hand without using the recited kit. Nor has the Office made any attempt to demonstrate how practicing the method by hand can be accomplished using another materially different

process. In short, the Office has provided no sound scientific rationale that the process can be practiced using a materially different product than that recited in the kit claims.

Applicants submit that the application is now ready for examination on the merits. Early notification of such action is requested.

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